

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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In re:	: Chapter 9
	: :
CITY OF DETROIT, MICHIGAN,	: Case No. 13-53846
	: :
Debtor.	: Hon. Thomas J. Tucker
	: :
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**CITY OF DETROIT’S THIRD STATUS REPORT
WITH REGARD TO PREFERENCE ACTIONS**

The City of Detroit, Michigan (the “City”) hereby submits its third status report (the “Third Status Report”) pursuant to this Court's *Order Scheduling Further Status Conference Regarding Preference Actions, and Continuing in Effect the Provisions of the November 24, 2015 Procedures Order* (Docket No. 11594) (the “Third Procedures Order”) and, in that connection, requests that the Court permit the process established by the Third Procedures Order to continue. For its Third Status Report, the City respectfully represents as follows:

BACKGROUND

1. The City filed its petition for relief under chapter 9 of title 11 of the United States Code (the “Bankruptcy Code”) on July 18, 2013. On December 5, 2013, the Court entered an order for relief after finding that

the City was eligible to be a debtor in a chapter 9 bankruptcy case (Docket No. 1946).

2. On November 12, 2014, the Court issued an Order confirming the *Eighth Amended Plan for the Adjustment of Debts of the City of Detroit* (the “Plan”) (Docket No. 8272). On December 31, 2014, the Court entered the *Supplemental Opinion Regarding Plan Confirmation, Approving Settlements, and Approving Exit Financing* (Docket No. 8993).

3. The Plan provided, among other things, that the City would retain and enforce claims, rights and Causes of Action (as defined in the Plan), including claims to recover transfers that are avoidable and recoverable pursuant to sections 547 and 550 of the Bankruptcy Code (collectively, the “Preferential Transfers”). See Plan, Article III(D)(2).

4. The Plan expressly preserved the City’s right to assert Causes of Action on account of Preferential Transfers against 324 parties identified in the City’s nonexclusive schedule of parties against whom Causes of Action could be asserted, which schedule was filed as an exhibit to the Plan. See Plan, Exhibit III.D.2 (Docket No. 8192).

5. On December 10, 2014 (the “Effective Date”), the Plan became effective in accordance with its terms. See *Notice of (I) Entry of Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit and (II) Occurrence of Effective Date* (Docket No. 8649).

6. On February 26, 2015, the City filed the Post-Confirmation Status Report of the City of Detroit Michigan (Docket No. 9306) (the “Post-Confirmation Status Report”), which is incorporated herein by reference.

7. The Post-Confirmation Status Report stated that: (i) the City deferred the analysis of potential Preferential Transfers until after the Effective Date; (ii) only after the Effective Date was the City able to devote resources to its diligence regarding the Preferential Transfers; and (iii) as of February 26, 2015, the City had identified approximately 300 parties who had received potential Preferential Transfers.

8. Thereafter, as a result of additional diligence, the City further reduced the number of parties from whom Preferential Transfers may be recovered to approximately 185 transferees (the “Transferees” or “Defendants”).

STATUS REGARDING PREFERENCE ACTIONS

9. On November 14, 2015, the Court entered the *Order Approving Procedures for Adversary Proceedings to Avoid and Recover Preferential Transfers* (the “First Procedures Order”) (Docket No. 10280), which had been sought at the City’s request. The First Procedures Order set forth the processes and procedures intended to promote amicable resolution of adversary proceedings (the “Preference Actions”) brought in

connection with the Preferential Transfers by the City against Transferees. In addition, the First Procedures Order directed the City to file a report on the status of the Preference Actions with the Court on or before April 29, 2016, and scheduled a status conference on May 18, 2016.

10. Thereafter, in or about December 2015, the City commenced 185 Preference Actions against the Defendants, seeking the avoidance and recovery of the Preferential Transfers, pursuant to sections 547 and 550 of the Bankruptcy Code.

11. On April 29, 2016, pursuant to the terms of the First Procedures Order, the City filed and served the *City of Detroit's Status Report with Regard to Preference Actions* (Docket No. 11137) (the "First Status Report"). As set forth in the First Status Report, between December 2015 and April 2016, the City resolved 106 out of the 185 Preference Actions, whether through settlement, discontinuance or otherwise, leaving 79 remaining proceedings.

12. Following a status conference held by the Court on May 18, 2016, the Court entered the *Order Approving Procedures for Adversary Proceedings to Avoid and Recover Preferential Transfers* (the "Second Procedures Order") (Docket No. 11178). Pursuant to the Second Procedures Order, the processes and procedures which had been implemented in these proceedings pursuant to the First Procedures Order,

including the stay of Federal Rule of Civil Procedure 26(f), were to remain in effect, unless and until the Court ordered otherwise. In addition, the Court directed the City to file a status report on or before September 20, 2016, and scheduled a status conference on September 28, 2016.

13. Pursuant to the Second Procedures Order, on September 16, 2016, the City filed and served its *Second Status Report with Regard to Preference Actions* (the “Second Status Report”). As set forth in the Second Status Report, between May 2016 and September 2016, the City resolved an additional 21 actions, which reduced the number of remaining Preference Actions to 58. Included in these resolutions was the settlement of one of the City’s most heavily litigated and contentious Preference Actions.

14. On September 28, 2016, following a status conference held by the Court on that same day, the Court entered its Third Procedures Order (Docket No. 11594). Pursuant to provisions of the Third Procedures Order, the Court’s stay of discovery, as set forth in the First Procedures Order and continued in the Second Procedures Order, was continued until the Court orders otherwise. In addition, the Court directed the City to file a further status report on or before November 29, 2016, and scheduled a status conference for December 14, 2016.

15. Currently, of the 185 Preference Actions originally commenced by the City, only 37 remain pending. Thus, less than one year

since the commencement of the Preference Actions, and without having to resort to judicial intervention, formal discovery or mediation, the City has resolved 148 Preference Actions or approximately 80% of the lawsuits. Attached hereto as Exhibit "A" is a schedule identifying the resolved Preference Actions, as of November 29, 2016.

16. As to the remaining Preference Actions, three Defendants have filed motions to dismiss that are pending before the Court, and another has filed a purported "joinder." The City is actively engaged in discussions with these parties concerning a consensual resolution of their matters.

17. The City is cautiously optimistic that it is on the cusp of resolving 10 or more of the 37 remaining Preference Actions within the next few weeks. Attached hereto as Exhibit "B" is a schedule identifying the remaining Preference Actions.

B. Future Procedures

18. As set forth above, the City has made tremendous progress addressing the claims it asserted in the Preferences Actions, resolving roughly 80% in less than one year. The City continues to work with the remaining 37 Defendants to amicably conclude their Preference Actions.

19. Given the steady and meaningful progress it has made, the City believes that the process established by the Court's prior Procedures Orders has been effective in facilitating the resolution of the Preference Actions -- without the need for costly and time consuming litigation and/or third-party mediation -- and should be continued. The City submits that it should be given a further brief, but meaningful, period of additional time so it can conclude the process it undertook less than a year ago.

20. Accordingly, the City requests that the terms and conditions of the First Procedures Order (as continued by the Second Procedures Order and Third Procedures Order) should remain in effect through February 21, 2017. Thereafter, the City proposes to file a final status report with the Court, on or before February 28, 2016 (the "Final Report"), in which the City will advise the Court as to the remaining Preference Actions. Following its review of the Final Report to be filed by the City, the Court should (as it deems appropriate) enter one or more scheduling orders as to the remaining Preference Actions setting forth, among other things, fact and expert discovery deadlines, procedures for bringing motions for summary judgment, and a pre-trial conference date.

21. Based on the results it has achieved to date, the City is cautiously optimistic that during this final additional period of time it can

resolve all, or virtually all, the remaining Preference Actions, if the parties can continue their discussions without the distraction and costs of formal discovery, litigation and/or mediation.

22. The City will be prepared to discuss this Third Status Report and the remaining Preference Actions at the status conference currently scheduled for December 14, 2016.

23. A copy of this Third Status Report has been served on all Defendants listed on Exhibit "B" hereto, including their respective counsel.

Dated: November 29, 2016
New York, New York

Respectfully submitted,

TOGUT, SEGAL & SEGAL LLP
By:

/s/ Scott E. Ratner
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